

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LORNA BOYD,

Plaintiff,

ORDER

19-CV-04323 (MKB) (LB)

v.

WELLS FARGO BANK, N.A., WOLF
VENTURES, INC., and FRENKEL, LAMBERT,
WEISS, WEISMAN, & GORDON LLP,

Defendants.

MARGO K. BRODIE, United States District Judge:

Plaintiff Lorna Boyd, proceeding *pro se*, commenced the above-captioned action on July 26, 2019, against Defendants Wells Fargo Bank, N.A. (“Wells Fargo”), Wolf Ventures, Inc. (“Wolf Ventures”), and Frenkel, Lambert, Weiss, Weisman, & Gordon LLP (“Frenkel Lambert”). (Compl., Docket Entry No. 1.) On July 26, 2019, the Clerk of Court issued summonses to Wells Fargo, (Summons 1, Docket Entry No. 3), and Wolf Ventures, (Summons 2, Docket Entry No. 4). Plaintiff never served either Defendant, and on August 19, 2019, Magistrate Judge Lois Bloom ordered Plaintiff to serve them with the Summons and Complaint by November 18, 2019. (Order dated Aug. 19, 2019, Docket Entry No. 8.) Although Plaintiff filed two returns of service on Wolf Ventures, neither attempt was proper. (Proof of Service dated July 27, 2019 attached as Exhibit 2; Proof of Service dated July 29, 2019 attached as Exhibit 3; Docket Entry No. 11). Judge Bloom gave Plaintiff additional time to properly serve Wolf Ventures, (Order dated Nov. 5, 2019, Docket Entry No. 24), but Plaintiff never did.

By report and recommendation dated January 15, 2020, Judge Bloom recommended that the Court dismiss the action against Wolf Ventures without prejudice pursuant to Rule 4(m) of

the Federal Rules of Civil Procedure, based on Plaintiff's failure to effectuate service ("R&R").¹ (R&R, Docket Entry No. 39.) No party has objected to the R&R and the time for doing so has passed.

A district court reviewing a magistrate judge's recommended ruling "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "Where parties receive clear notice of the consequences, failure to timely object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision." *Smith v. Campbell*, 782 F.3d 93, 102 (2d Cir. 2015) (quoting *Mario v. P&C Food Markets, Inc.*, 313 F. 3d 758, 766 (2d Cir. 2002) (citing *Small v. Sec'y of Health & Human Servs.*, 892 F. 2d 15, 16 (2d Cir. 1989) (per curiam))); see also *Sepe v. N.Y. State Ins. Fund*, 466 F. App'x 49, 50 (2d Cir. 2012) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); see also *Almonte v. Suffolk Cty.*, 531 F. App'x 107, 109 (2d Cir. 2013) ("As a rule, a party's failure to object to any purported error or omission in a magistrate judge's report waives further judicial review of the point." (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) ("[A] party waives appellate review of a decision in a magistrate judge's [r]eport and [r]ecommendation if the party fails to file timely objections designating the particular issue." (citations omitted)).

¹ Defendants Wells Fargo and Frenkel Lambert have both filed motions to dismiss that are currently pending before the Court. (Def. Wells Fargo Mot. to Dismiss, Docket Entry No. 25; Def. Wells Fargo Mem. in Supp. of Wells Fargo Mot., Docket Entry No. 34; Def. Frenkel Lambert Mot. to Dismiss, Docket Entry No. 29; Def. Frenkel Lambert Mem. in Supp. of Frenkel Lambert Mot., Docket Entry No. 31.) Plaintiff has not responded to these motions.

The Court has reviewed the unopposed R&R and, finding no clear error, adopts the R&R pursuant to 28 U.S.C. § 636(b)(1). Accordingly, the Court dismisses the action against Wolf Ventures without prejudice.

Dated: May 22, 2020
Brooklyn, New York

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge